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QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
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OFFICE OF PETITIONS

ON PETITION

In re Application of
Kemble, et al.
Application No.: 09/724,935
Filed: November 28, 2000
Attorney Docket No: AVIR-0032-1

This is in response to the petition under 37 CFR 1.137(b) filed May 3, 2004.

The petition under 37 CFR 1.137(b) is granted.

On May 9, 2001, a "Notice to File Missing Parts of Nonprovisional Application" was mailed by the Office requiring payment of the filing fee and a surcharge for the late payment thereof, an oath or declaration, and a sequence listing. The notice allowed an extendable period for response of two months from its mailing date. No response was received within the allowed period and the application became abandoned on July 10, 2001. A Notice of Abandonment was mailed on June 9, 2003.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith in accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

The filing fee and surcharge were received on May 3, 2004.

The executed declaration and sequence listing were received on May 3, 2004. A preliminary amendment was also received on May 3, 2004.

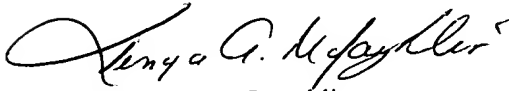
The "Power of Attorney or Authorization of Agent, not Accompanying Application" was received on May 3, 2004, and is made of record.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

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Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0010.



Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosures:

"Notice Regarding Change of Power of Attorney"
"Notice of Acceptance of Power of Attorney"